

### Judge Barnes, cont.

the Regional Director's Citation in 1989 and 1998 for innovative and effective child support enforcement from the U.S. Department of Health and Human Services, and in 1995 received the State Director's Award for Outstanding Child Support Program from the Indiana Family & Social Services Administration.

While Prosecutor, Judge Barnes was elected President of the National District Attorneys Association (1995-1996), Chairman of the Board, Indiana Prosecuting Attorneys Council (1982-1983, 1992-1993), President of the St. Joseph County Bar Association (1992-1993), National Board of Trial Advocacy (1995-1996), National Advisory Council on Violence Against Women (1997), Chairman of the Board of Regents, National College of District Attorneys (1997-1998), American Prosecutor's Research Institute (1997-1998), and various other professional and civic organizations.

The Indiana Victim Assistance Network honored him with its Special Advocate Award in 1989, and in 1998 he received the Eugene "Shine" Feller

Award from the Indiana Prosecuting Attorneys Council.

Judge Barnes supports a wide range of community organizations, especially those that serve vulnerable populations. He is a longtime supporter of the LOGAN Center's annual Nose-On campaign and in 1986 received its Joseph J. Newman Award for Committed and Outstanding Advocacy on Behalf of Developmentally Disabled Individuals.

He also has served on the boards of the St. Joseph County Chapter of the American Cancer Society and the Alcoholism Council of St. Joseph County.

Judge Barnes is a member of the Indiana Bar Foundation, the St. Joseph County Bar Association, the Indiana State Bar Association, and the Illinois State Bar Association.

Judge Barnes is married to Alberta Barnes, a retired educator. They are the parents of two sons, Tim and John. Tim is an attorney in Washington, D.C. John is a TV producer at NBC Sports. John and his wife, Bess, are the parents of the world's most perfect granddaughter, Addison Emily.

He lives in South Bend and is an avid baseball fan and reader.

### Judge May, cont.

Award from the Indiana State Bar Association for her dedication to helping women advance in the legal community.

She and her husband live in Morgan County.

### Judge Crone, cont.

Court by election in 2006. He is married and has three daughters – a practicing attorney, an anesthesiologist and a doctor of psychology.

## Attorneys for the Parties

### For the Appellant

**Suzy St. John** has worked in the Appellate Division of the Marion County Public Defender Agency full-time since graduating from Indiana University School of Law in Indianapolis in 2009. She was enrolled in the law school's first Appellate Clinic course.

She also competed in two national moot court competitions, receiving high honors for oral argument in 2009.

Suzy has represented more than 150 indigent clients on direct appeal. She has argued many times before the Court of Appeals of Indiana.

Suzy is a dog lover and Hoosier basketball fan who currently resides in Indianapolis.

### For the Appellee

**Tyler G. Banks** began working as a Deputy Attorney General in Criminal Appeals in March 2015. Mr. Banks graduated from Purdue University with a B.S. in Economics in 2009. He earned his J.D. in 2012 from Emory University School of Law in Atlanta, GA.

While at Emory, he served as Executive Managing Editor for the *Emory International Law Review*, published a comment on international law and corporate liability, and received the Red Pen Award for Excellence in Editing.

Before coming to the Attorney General's Office, Mr. Banks was a Deputy Prosecuting Attorney in Jackson County, IN, for more than two years, managing a caseload in excess of 1,200 filed cases per year. He is originally from Brownstown, IN, and now resides in Indianapolis.

### A bit of local history

The LaPorte County Courthouse, left, was completed in 1894 and is considered the crown jewel of the city of LaPorte's Downtown Historic District.

According to the National Register of Historic Places, the Courthouse is "a free-wheeling example of Richardsonian Romanesque" architecture. It was designed by B.S. Tolan, a Chicago architect.

Prominent features, according to the National Register, are its large rotunda and large arches that frame intricate stained-glass half-rounds.

## SYNOPSIS

On Aug. 18, 2014, Officer Dustin Greathouse observed a vehicle driven by Chauncy Rhodes traveling over the posted speed limit. Officer Greathouse initiated a traffic stop, and Rhodes parked his vehicle in a nearby driveway.

Rhodes initially told Officer Greathouse he pulled into the driveway because his cousin lived there; Rhodes later admitted he was trying to avoid Officer Greathouse because Rhodes was driving with a suspended license.

Officer Greathouse arrested Rhodes for driving with a suspended license and decided to tow the car. Before he towed the car, Officer Greathouse conducted an inventory search of the glove box, trunk, and passenger compartment. He found "numerous personal items" and "miscellaneous items" for which he did not create a record. Officer Greathouse also found a half-eaten pizza, a pizza delivery bag, and a jar of money.

In the glove box, Officer Greathouse found a "red metal grinder" with "a small amount of marijuana" inside.

Before his bench trial, Rhodes filed a motion to suppress the items found as part of the inventory search because the search violated his constitutional rights under the Fourth Amendment and Article 1, Section 11. Rhodes' motion was denied. He renewed his objection to the admission of the same evidence during trial.

The trial court found Rhodes guilty of Class A misdemeanor possession of marijuana and Class A misdemeanor driving while suspended. The trial court enhanced the marijuana possession to a D felony based on Rhodes' prior marijuana possession conviction.

### Impoundment

Rhodes argues that Officer Greathouse should not have towed his vehicle because there was insufficient evidence that the vehicle posed a threat or harm to the community.

Generally, a vehicle may be towed by police in the course of an arrest for "community caretaking" purposes such as (1) the arrest of the driver has left the vehicle unattended on the highway; (2) the owner of the vehicle cannot be

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## Court of Appeals of Indiana

*Hearing oral argument at  
New Prairie High School  
December 3, 2015 @ 12 p.m.*



*Rhodes v. State*

49A02-1503-CR-173

*On Appeal from Marion Superior Court  
The Honorable Jose Salinas, Judge*





Synopsis, cont.

located; or (3) the vehicle is located on private property and the owner of the property requests removal. Rhodes asserts none of the “community caretaking” requirements existed because the State neither proved Rhodes’ vehicle was a hazard nor provided information regarding the Indianapolis/Marion County Police Department’s protocol in such a situation.

The State claims the decision to tow the vehicle was reasonable because a resident of the house requested the removal of the vehicle. However, there is some dispute about when a resident asked for the car to be removed, as the parties disagree whether the request occurred before or after Officer Greathouse decided to tow the car and search it.

The State also argues that Officer Greathouse’s testimony regarding police procedure was sufficient to prove he towed Rhodes’ vehicle in accordance with police protocol.

Inventory Search

Rhodes argues that the trial court abused its discretion when it admitted the evidence seized as a part of the inventory search because the

search violated Rhodes’ rights against unlawful search and seizure under the Fourth Amendment of the United States Constitution and Article 1, Section 11 of the Indiana Constitution. Specifically, he asserts the State did not prove the circumstances surrounding the search fell within the inventory search exception to the warrant requirement because the State did not present evidence regarding department procedure, and thus Rhodes claims it is impossible to ensure the search was done properly. The State claims the search was reasonable based on the totality of the circumstances.

Double Jeopardy

Rhodes argues he was subjected to double jeopardy because the trial court entered judgment for Class A misdemeanor possession of marijuana and Class D felony possession of marijuana based on the same incident. Rhodes claims the fact that the misdemeanor was merged and a guilty finding was entered as to the felony only does not cure the error. The State asserts that Rhodes was not convicted of both crimes, and based on the trial court’s statements at trial and sentencing, any error in the abstract was a reporting error and concedes that remand may be appropriate to clarify the issue.

Fast facts about the Court of Appeals of Indiana

- The Court of Appeals observed its centennial anniversary in 2001.
- The Court hears cases in three-judge panels that rotate three times per year. Cases are never assigned to a single judge, and all cases are randomly assigned.
- Including judges serving senior terms, 136 judges have served the Court since its inception. Their photos are displayed against the north wall of the Statehouse on the fourth floor. Judge James B. Black (1838-1916) was the Court’s first chief judge.
- Judge Robert R. Altice, Jr., is the court’s newest judge. He took the oath of office on Sept. 2, 2015.
- Because the Indiana Constitution provides “an absolute right to one appeal,” the Court of Appeals considers more than 2,000 cases each year. The Indiana Supreme Court need not consider every appeal, so it decides about 100 cases per year.
- Eight women and three African Americans have served on the Court. Current Chief Judge Nancy H. Vaidik is the Court’s second female chief judge.
- The court decides most cases without holding oral argument. In 2013, for example, the court issued 2,058 majority opinions and heard 71 oral arguments.
- The court hears and decides about twice as many criminal cases as civil cases each year.
- The Court of Appeals affirmed trial court decisions in 80 percent of its cases in 2013. By case type, the affirmation rate was 86 percent of criminal cases; 91 percent of post-conviction relief petitions; and 63 percent of civil cases.

Glossary

**Fourth Amendment:** “The right of the people to be secure in their persons, houses, papers and effects, against unreasonable searches and seizures.” The language of Article 1, Section 11 of the Indiana Constitution is virtually identical.

**Warrant:** A warrant is required to search a person or location unless an exception to the warrant requirement applies.

**Double Jeopardy:** “No person shall be put in jeopardy twice for the same offense.”

**Inventory Search:** Police may conduct a warrantless search of a lawfully impounded vehicle if the search is designed to produce an inventory of the vehicle’s contents.

**Motion to Suppress:** A request by a defendant that the court not allow the State to use certain evidence against him at trial. It is usually based on an allegation the State obtained the evidence through an illegal or unconstitutional procedure such as an unlawful search or seizure. If the trial court grants the motion, the evidence cannot be used against the defendant

If a motion to suppress is successful, the State sometimes is left with no case against the defendant and has to drop the charges.

What follows oral argument?

After oral argument, a designated “writing judge” drafts an opinion for the panel’s consideration.

Opinions usually affirm or reverse lower court rulings in whole. But some affirm in part, reverse in part, or both. Often the opinion instructs the trial court about next appropriate steps.

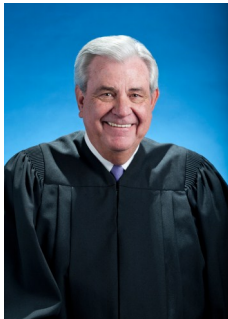
Many opinions are unanimous, although 2-1 votes are not uncommon. Judges sometimes write separate concurring or dissenting opinions that emphasize different points of law or facts than the main opinion.

Parties can appeal Court of Appeals decisions to the Indiana Supreme Court by filing a petition to transfer. But transfer is not automatic; the Supreme Court can grant or deny transfer with or without giving a reason.

Court of Appeals Mission Statement:

“To serve all people by providing equal justice under law.”

Today’s Panel of Judges



The Honorable Michael P. Barnes

St. Joseph County

**Michael P. Barnes** was appointed to the Court of Appeals of Indiana in May 2000 after long service as the St. Joseph County Prosecuting Attorney.

He was retained on the Court by election in 2002 and 2012 and served as Presiding Judge of the 3rd District from 2009 through 2011.

In 2012 he wrote 144 majority opinions for the Court of Appeals. Judge Barnes was born and raised in rural Illinois. He earned a B.A. in History at St. Ambrose College in Davenport, IA in 1970 and received his J.D. in 1973 from the University of Notre Dame Law School.

He practiced law from 1973-78 at the South Bend law firm of Voor, Jackson, McMichael and Allen, while also serving as Deputy Prosecuting Attorney. Voters chose him in 1978 to be the St. Joseph County Prosecuting Attorney, an office he held for 20 years over five elections.

While prosecutor, he oversaw a staff of 65 and spearheaded development of the CASIE Center for child victims of physical and/or sexual abuse, which continues to serve the community. Judge Barnes also created a domestic and family violence unit in the Prosecutor’s office and launched a pretrial diversion program for nonviolent misdemeanor offenders that served as a model for successful state legislation. The domestic and family violence unit focused solely on crimes against women and children, including abuse and neglect.

Judge Barnes personally tried more than 25 murder and other major felony cases while overseeing a staff of 12 to 15 deputy prosecutors.

His efforts to collect delinquent child support payments garnered more than \$100 million for children in St. Joseph County. For those efforts, he received

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The Honorable Melissa S. May

Vanderburgh County

Born in Elkhart, **Melissa S. May** studied criminal justice at Indiana University-South Bend before earning her law degree from Indiana University School of Law-Indianapolis in 1984. She then launched a 14-year career in private legal practice in Evansville that focused on insurance defense and personal injury litigation.

Judge May moved directly from private practice to the Court of Appeals in 1998 and was retained by election in 2000 and 2010. Prior to this year, she served as Presiding Judge of the Fourth District, which covers all of Indiana.

Judge May has long been active in local, state and national bar associations and foundations, with a particular focus on continuing legal education and appellate practice. At various times, Judge May has chaired the Indiana State Bar Association’s Litigation and Appellate Practice sections and was secretary to the Board of Governors.

As chair of the Indiana Pro Bono Commission (for the public good), Judge May worked with 14 pro bono districts to train lawyers and mediators on how to assist homeowners facing foreclosure. She also serves on an Indiana Judicial Conference Committee that translated all civil jury instructions into “plain English.”

Judge May teaches trial advocacy at Indiana University McKinney School of Law and frequently speaks on legal topics to attorneys, other Judges, schools, and other professional and community organizations. She is special counsel to the American Bar Association’s Standing Committee on Attorney Specialization, on which she’s served since 2003.

In October 2011, Judge May received the Women in the Law Recognition

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The Honorable Terry A. Crone

St. Joseph County

**Terry A. Crone** was appointed to the Court of Appeals March 8, 2004 by Governor Joseph E. Kernan.

Judge Crone was raised in South Bend. He graduated cum laude from DePauw University with a double major in political science and history in 1974 and graduated from Notre Dame Law School in 1977.

Judge Crone practiced law for nine years, concentrating in areas of civil practice, and served as the St. Joseph County Attorney from 1981 to 1986. In 1986, he was appointed Magistrate of the St. Joseph Circuit Court, where he served until his appointment as Judge of the St. Joseph Circuit Court in 1989.

Judge Crone is a past President of the St. Joseph County Bar Association and a former member of the Board of Managers of the Indiana Judges Association, the Supreme Court Committee on Character and Fitness, and the Alternative Dispute Resolution Committee of the Indiana Judicial Conference.

Judge Crone is a past Chair of the Appellate Practice Section of the Indiana State Bar Association and is a member of the St. Joseph County, Indianapolis, Marion County, Indiana State and American Bar Associations, the American Judicature Society, and the Phi Delta Phi Honorary Legal Society.

Judge Crone is a frequent speaker at legal education programs. He helped found a program in South Bend to familiarize minority high school students with the law and related fields and was a founding member of the South Bend Commission on the Status of African-American Males and the St. Joseph County Coalition Against Drugs.

As Circuit Court judge, he also initiated the first Spanish-speaking program for public defenders in St. Joseph County.

Judge Crone was retained on the

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